

**DEPARTMENT OF ENVIRONMENTAL QUALITY
ENFORCEMENT DIVISION**

**FISCAL YEAR 2003 ENFORCEMENT STATUS REPORT
JULY 1, 2002 through JUNE 30, 2003**

The Enforcement Division (ENFD) is responsible for the implementation, coordination and tracking of Department of Environmental Quality (DEQ) enforcement activities, and for the investigation and response to spills and citizen complaints that allege impacts to human health and the environment. The Enforcement Division consists of the Complaint Management Section and the Case Management Bureau.

I. Complaint Management Statistics

Total number of complaint and spill reports received during the report period was 948.

In an effort to delineate areas of regulatory responsibility for complaints received by the department, a complaint type is assigned that generally relates to program authority. The Complaint Management Section is responsible for the initial investigation of all complaints to determine their validity and to ensure proper follow-up occurs (if needed). Spills being recorded are typically associated with unauthorized material releases resulting from vehicle accidents, mechanical malfunctions, or human error.

Number of Complaint / Spill Reports by Type (DEQ Program or Environmental Media) & General Group				
Air Quality - Dust	48	Spills (not impacting water)	19.7%	187
Air Quality - Emissions	66	Clandestine Drug Lab		27
Air Quality - Odors	15	Solid Waste		70
Air Quality - Open Burning	41	Junk Vehicles		26
Asbestos	67	Septic Pumpers		20
Total Air Quality Related	25.0%	237	Sewage	4
Water Quality	84	Septage From Drain Fields Etc		13
Spills (impacting water)	33	Hazardous Waste		23
318 Permit	11	Used Oil		45
Watershed Management (TMDL)	0	Pesticides		5
Release of Chemicals from Tanks *	20	Municipal Waste Water Treatment Systems		9
Release of Chemicals from Pipelines	13	Superfund		2
Suspect Hydrocarbon Release	0	Total Waste Related	25.7%	244
Underground Storage Tank Regulation	9	Abandoned Mines		0
Subdivisions	13	Strip and Underground Mining		2
Animal Feedlot Operation	8	Opencut Gravel Mining		9
Concentrated Animal Feedlot Operations	10	Metal Mines		5
Surface Water (MPDES) Permits	17	Total Mining Related	1.7%	16
Ground Water (MGWPCS) Permits	3	Major Facility Siting Act (MFSA)	0.2%	2
Public Water Supply Systems	16	Other (Outside DEQ Authority)	2.3%	22
Nonpoint Source	3			
Total Water Related	25.3%	240	TOTAL FOR ALL COMPLAINTS	948

* Note that these are releases reported through ENFD. The Hazardous Waste Site Cleanup Bureau received 58 leak reports directly during this time.

Status of complaint and spill reports received during reporting period:

Complaint reports are sent to the ENFD for initial investigation and database entry. Referral occurs when the determination is made that the complaint falls under a specific regulatory authority either within DEQ or an outside agency. Referral contacts are asked to keep the ENFD informed as to progress and resolution of complaint investigations. If the complainant requests a reply as to actions taken on their complaint, one is provided.

Status of Complaint Spill Reports *	
Active (under investigation by ENFD)	116
Active Referred (to other DEQ program for investigation and follow-up)	77
Active Enforcement Case (complaint that led to a request for enforcement action)	10
Closed (resolved by ENFD)	389
Closed by Program (resolved by other DEQ program)	105
Closed No Violation (ENFD investigation determined no violation occurred)	115
Closed Referred (referred to outside Agency for resolution)	95
Closed Not Enough Information (not enough information was provided or documented to validate)	41
	948

* Status as of 6/30/03. Please note that the status of complaints and spills can change on a daily basis as work progresses.

II. Case Management Statistics

The following tables provide various statistics concerning enforcement actions taken by the Department of Environmental Quality from July 1, 2002 through June 30, 2003.

Enforcement Actions Processed by Statute										
Statute	Enforcement Requests			Status of Enforcement Requests						
	Total Caseload	Cases continuing FY02	Actions requested FY03	Case Development	In Litigation	Under Order	Referred Cases	Vacated, Stayed or Suspended	Withdrawn	Closed
Asbestos Control Act	12	8	4	2	2	4	3	0	0	1
Clean Air Act of Montana	19	10	9	5	3	4	0	0	0	7
Metal Mine Reclamation Act	8	8	0	0	2	4	0	0	0	2
Montana Hazardous Waste Act	15	11	4	2	2	7	0	1	0	3
Montana Solid Waste Management Act	21	16	5	4	3	7	0	0	0	7
Montana Underground Storage Tank Act	86	31	55	40	4	24	1	2	2	13
Montana Underground Storage Tank Installer and Inspector Licensing and Permitting Act	1	1	0	0	0	1	0	0	0	0
Motor Vehicle Recycling & Disposal Laws	17	15	2	2	1	7	1	0	0	6
Opencut Mining Act	30	23	7	2	5	7	0	1	3	12
Public Water Supply Laws	96	48	48	10	1	39	24	1	1	20
Sanitation in Subdivision Laws	9	8	1	0	1	4	0	1	0	3
Septic Disposal and Licensure Laws	1	0	1	1	0	0	0	0	0	0
Strip and Underground Mine Reclamation Act	15	9	6	0	4	5	0	0	0	6
Water Quality Act	25	23	2	0	2	14	1	2	0	6
TOTAL	355	211	144	68	30	127	30	8	6	86

Case status explanations

Case Development: Case is being developed in the Enforcement Division and/or Legal Unit. Activities include: 1) preparation and review of files and evidence; 2) preparation of administrative and judicial enforcement documents; 3) preparation of penalty calculations.

In Litigation: Defendant and the department are engaged in pre-complaint settlement negotiations; e.g., a demand letter has been sent to the defendant, the defendant has been requested to stipulate to a draft administrative order, etc.

Under Order: Violator is subject to a legally-enforceable administrative or judicial order.

Referred Case: Case referred to another agency for case management.

Vacated: Case was vacated, either by mutual agreement or by the court, and is closed.

Stayed: Case in which the department refrains from enforcing an administrative order against a violator

Suspended: Case that is discontinued temporarily or permanently but is not closed.

Withdrawn: Enforcement Request was withdrawn before case development began.

Closed Enforcement Case: Case is closed. The defendant has satisfied the terms of the settlement agreement or order.

Analysis of Enforcement Actions by Enforcement Action Type					
Statute	2003 Case Load	Enforcement Action Type			
		Admin.	Civil	Criminal	Referred
Asbestos Control Act	12	6	3	3	0
Clean Air Act of Montana	19	13	6	0	0
Metal Mine Reclamation Laws	8	5	3	0	0
Montana Hazardous Waste Act	15	10	5	0	0
Montana Solid Waste Management Act	21	13	8	0	0
Montana Underground Storage Tank Act	86	78	7	0	1
Montana Underground Storage Tank Installer and Inspector Licensing and Permitting Act	1	0	1	0	0
Motor Vehicle Recycling and Disposal Laws	17	8	8	0	1
Opencut Mining Act	30	29	1	0	0
Public Water Supply Laws	96	56	16	0	24
Sanitation in Subdivision Laws	9	8	1	0	0
Septic Disposal and Licensure Laws	1	1	0	0	0
Strip and Underground Mine Reclamation Act	15	15	0	0	0
Water Quality Act	25	22	2	0	1
TOTAL	355	264	61	3	27

Penalties Statistics (in dollars)							
Statute	Orders w/ Penalties FY2003	Monetary Settlement Penalties		Monetary Penalties Collected		Penalties Suspended	Suppl. Env. Project
		Admin.	Civil	Admin.	Civil		
Asbestos Control Act	1	\$1,666		\$833			
Clean Air Act of Montana	6	\$48,400	\$2,167,975	\$57,200	\$238,585		\$183,653
Metal Mine Reclamation Laws	2	\$42,925					
Montana Hazardous Waste Act	1	\$6,250		\$6,250			\$4,500
Montana Solid Waste Management Act	2		\$1,300		\$300		
Montana Underground Storage Tank Act	21	\$14,900	\$121,905	\$12,100	\$1,000		
Montana Underground Storage Tank Installer and Inspector Licensing and Permitting Act	0						
Motor Vehicle Recycling and Disposal Laws	0						
Opencut Mining Act	8	\$22,454		\$17,779			
Public Water Supply Laws	16	\$12,590	\$500	\$13,015	\$500		
Sanitation in Subdivision Laws	1		\$2,000		\$2,000		
Strip and Underground Mine Reclamation Act	7	\$3,480		\$3,480			
Water Quality Act	2	\$40,771		\$40,771	\$13,200		\$178,200
Subtotal*		\$193,436	\$2,293,680	\$151,428	\$255,585		
TOTAL	67	\$2,487,116		\$407,013		\$0	\$366,353

* The amount of Penalties Collected does not equal the Settlement Penalties because; (1) penalties were not due before the end of FY2003, (2) penalties are being paid under a payment schedule, (3) portions of penalties have been suspended, (4) the violator has failed to pay the penalty, (5) the violator has appealed the penalty order, or (6) the violator is or may be insolvent. In instances where the violator has not paid a penalty that is owed, the department is actively pursuing collection.